PUBLIC PROSECUTOR

v.

TEO TING HOCK

HIGH COURT, SINGAPORE
LAI KEW CHAI J
AP RAJAH J
[CRIMINAL CASE NO. 32 OF 1984]
29 SEPTEMBER 1986

CRIMINAL LAW AND PROCEDURE: *Accused charged and tried for murder - Defence of grave and sudden provocation - Exception 1 of s. 300 of the Penal Code.*

The accused was charged and tried for murdering his wife by fatally stabbing her and causing her death. Although the accused admitted that he had inflicted the fatal wounds he claimed that the culpable homicide was not murder because at the material time he was deprived of the power of self-control by reason of the grave and sudden provocation given by the wife. His defence was therefore based on Exception 1 of s. 300 of the Penal Code.

Held:

[1] The accused on seeing his wife intervening in the fight on behalf of her lover had lost control of himself.

[2] The provocation was such that what the accused did immediately thereafter did not amount to murder but it amounted to culpable homicide not amounting to murder. The accused is therefore convicted of the offence of having committed culpable homicide not amounting to murder.

[3] The taking of a life is a very serious matter but his two children, particularly the daughter, should not be separated from their father for a period longer than is necessary. The appropriate sentence should be imprisonment for a term of five years from the date of arrest.

Legislation referred to:
Penal Code [Sing], s. 300

For the public prosecutor - Roy Neighbour (Ang Seng Teck with him)
For the accused - J.S. Khosa

JUDGMENT

The accused, aged 38 years and a bus driver, stands charged and tried before us for murdering his wife, Tan Poh Choo, then aged 31 years by fatally stabbing her and causing her death on 30 November 1983 at about 10.30 p.m. at an open field in front of their apartment block 241, street 24, Jurong East, Singapore.

Although the accused had admitted that he had inflicted the fatal wounds he claimed that the culpable homicide was not murder because at the material time he was deprived of the power of self-control by reason of the grave and sudden provocation given by the wife. His defence was therefore based on exception 1 of s. 300 of the Penal Code.

The evidence led by the prosecution was this. The accused and the deceased were married in 1970. They have a son and a daughter who are now 17 and 13 years of age. The marriage was an unhappy one. The deceased complained and it was admitted that the accused was a

habitual gambler and was always in debt. In 1979 PW6, Lim Thou Fu, befriended the deceased in their place of work. In 1982 the relationship between the accused and the deceased deteriorated because creditors were constantly harassing the accused who unreasonably required the deceased to pay off his debts. She contemplated divorcing the accused. In the meantime, the friendship between the deceased and Lim Thou Fu grew and in 1983 they were having extra-marital relationships. She saw him regularly. Inspite of being warned, Lim Thou Fu kept on seeing the deceased.

The accused had ample grounds to think that the deceased had been unfaithful. In anger he vandalised the car of Lim Thou Fu which had to be repaired at the cost of $380. Lim Thou Fu confronted the accused who eventually, on the insistence of the deceased, agreed to pay for the damage. This incident took place on 3 November 1983.

An incident which had a bearing on the fatal stabbings took place on 27 November 1983, three days before the fatal stabbings. On the night of 27 November 1983 the accused went with his friend, PW8 Ng Swee Huat, on a motor cycle to Singa Inn, East Coast Parkway, where the deceased was working as a part-time wine promoter, to fetch the deceased home. Her lover, Lim Thou Fu, also went there to take the deceased out. The deceased and Lim Thou Fu were caught out. As an excuse, Lim raised the issue of the debt which the accused had failed to pay. There followed an altercation during which it became clear to the friend of the accused, Ng Swee Huat, that the deceased was taking the side of her lover and that in spite of the pleas of the accused the deceased refused to go home with the accused. They agreed to lodge police reports about the accused's act of vandalism. They got into Lim Thou Fu's car. On the way, Lim Thou Fu suggested that they proceed to a place in "Nee Soon" for settlement talks. Fearing an ambush, the accused threatened to jump out of the car unless Lim Thou Fu stopped the car. The car was stopped and Lim Thou Fu was about to hit the accused with a baton which was only prevented by the arrival of Ng Swee Huat on his motor cycle. All three parties ended up with lodging police reports at the Joo Chiat police station. At the end of it all, the accused was pillioned home alone by Ng Swee Huat and the deceased left in the car of her lover. She stayed away from home that night and the next two nights. According to the friend of the accused, the accused that night was very sad and crestfallen.

We come to the night of the stabbings. The accused went to the Singa Inn and intended to take the deceased home in a taxi. After work, the deceased was taken home by the accused in the taxi. On the way, the accused saw the car of Lim Thou Fu in a car park nearby. He did not see him. The accused and the deceased alighted from the taxi in front of their flat. The accused saw Lim Thou Fu arriving in his car. Whilst they were walking along the concrete pavement along an open field in front of their flat, Lim Thou Fu came upon the scene. He demanded from the accused payment of the $380. According to the version of Lim Thou Fu, the accused required his wife to pay the debt and when she refused the accused arm-locked her throat. As a result, she had difficulty in speaking. According to Lim Thou Fu, he thereupon pulled away the arm of the accused and punched him twice on his face. On being released, the deceased ran to and sat in his car. Lim Thou Fu went on to say in evidence that he continued to press the accused for payment. The accused then slashed him with a folding knife, inflicting on him a slicing wound on his neck. The accused also stabbed him on the chest. Lim Thou Fu then rushed to his car and returned armed with a baton. During those fleeting moments, the deceased left the car and rushed at the accused, seeing that her lover was injured, and intervened. She grabbed him and pushed him. He fell

on his knees and in the process he pulled her down. At that stage, the accused became furious, turned his anger on his wife and stabbed her to death, inflicting three fatal wounds which pierced the heart and rights lung of the deceased.

According to the accused, the start of the trouble was quite different. Lim Thou Fu had descended upon them and appeared to want to take his wife out. The accused refused and held on to the hand of his wife. Lim Thou Fu, a person of much bigger built, pulled away the hand of the accused from his wife, who thereupon rushed to and sat in the car of her lover. Lim Thou Fu then pressed him for the money and they had an altercation in the course of which Lim Thou Fu punched him twice. The accused cried for help. His wife did not respond at all. The accused, who had carried with him a folding knife to defend himself in view of Lim Thou Fu's threat with a baton 3 nights earlier, then took out his knife and slashed at Lim Thou Fu with a single stroke in the course of which the knife just sliced the neck of Lim Thou Fu and nicked his chest. The accused said he did this to frighten off Lim Thou Fu.

On seeing that her lover was injured, the deceased rushed at the accused. She tried to snatch away his knife. They struggled and she pushed him to the ground. The accused said that on seeing his wife intervening for her lover he was beside himself and flew into a rage. He stabbed his wife several times. He fainted and lost consciousness after Lim Thou Fu had hit his head with the baton.

The police and the ambulance arrived shortly after the fatal stabbings. The accused was arrested and the body of the deceased was taken to the mortuary for an autopsy.

A few hours after his arrest, the accused made a voluntary statement to the police. Save for two minor discrepancies, the version given in the statement is substantially similar to the one given in Court. The first discrepancy concerned the knife which in his statement he alleged he picked up only that night near the Singa Inn. This was admittedly false. The second discrepancy concerned the sequence between the accused's slashing at Lim Thou Fu and Lim Thou Fu's rush to his car to get the baton. In the statement, the accused falsely claimed that he had slashed at Lim Thou Fu as the latter was armed with a baton. The accused admitted that it was untrue because after his arrest he realised it was wrong to slash at an unarmed person and he made up the story.

The autopsy of the deceased was performed on 1 December 1983 by Dr.Clarence Tan, a forensic pathologist of the department of pathology of the Singapore general hospital. The deceased suffered 9 external injuries on her trunk, 6 external injuries on her head and neck and 9 external injuries to her upper limbs. Each of the first four wounds on the trunk of the deceased were fatal wounds which in the ordinary course of nature would have caused death. The first wound entered the right anterior chest wall of the deceased. It pierced the anterior pericardium of the heart and both the interior and posterior walls of the right ventricle. The depth of the wound was 10-11 cm. In addition to the immense loss of blood at the scene, and the fact that the blouse of the deceased was soaked with blood, the cavity around the heart of the deceased was found to have been distended by 100 c.c. of blood. In the opinion of Dr. Clarence Tan this was a fatal stab wound which had penetrated the heart resulting in massive haemorrhage.

The second fatal stab wound entered the right upper anterior chest wall of the deceased just below the right clavicle. The lung was penetrated by 4.5 cm. The depth of the wound was 8-9 cm. This stab wound should be considered together with another fatal stab wound which had damaged the lower portion of the right lung of the deceased. This stab wound

had entered the trunk of the deceased at the right posterior lower thoracic back. The point of penetration was 20 cm from the right nipple and 30 cm from the right anterior superior iliac spine. It entered the lung cavity at the right 9th intercostal space at right angles to the course of the ribs. The lung was penetrated by 5.5.cm. The depth of this wound was 8-9 cm. In addition to the loss of blood through the open wounds, the right lung cavity was found to contain 300 c.c. of blood.

The fourth fatal wound was inflicted at the deceased's right posterior thoracic back. The lower lobe of the liver and the upper pole of the right kidney were pierced. The depth of the wound was 8-9 cm. deep.

According to Dr. Clarence Tan, these four wounds were inflicted by the use of moderate force if they were inflicted by a folding knife like that found at the scene which, in his opinion, could have caused the wounds. They were also inflicted one after another in quick succession, seeing that they were sited quite near each other and the wounds entered the trunk in more or less the same directions of each other.

We would now give our views on the defence of grave and sudden provocation. Having considered all the evidence we are satisfied that the accused on seeing his wife intervening in the fight on behalf of her lover had lost control of himself. We accept his version on how it all started that night. They were about to arrive home. Lim Thou Fu came on the scene and used force on him. We did not believe that Lim Thou Fu had called merely to collect the debt. He had never previously called on the accused to collect the debt. He forcibly removed the hand of the accused from that of his wife. He punched him, a much smaller man. In defence, the accused slashed at him just once to frighten him off. The accused then saw his wife rushing at him to intervene and taking the side of her lover. She grabbed the knife and attempted to take it away. He lost his head and stabbed her repeatedly. It all happened very quickly. There was no time for the blood to cool.

We are satisfied that the provocation was such that what the accused did immediately thereafter did not amount to murder but it amounted to culpable homicide not amounting to murder. We accordingly convict the accused of the offence of having committed culpable homicide not amounting to murder.

On the question of sentence, my brother Judge and I have considered all the evidence. We note that the taking of a life is a very serious matter but we take the point that his two children, particularly the daughter, should not be separated from their father for a period longer than is necessary to underscore the serious view we take against the taking of a human life. We think that the appropriate sentence should be an imprisonment for a term of five years from the date of his arrest on 30 November 1983.

Also found at [1987] 2 CLJ 186

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